

FILED BY *cas* IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

05 JUN 7 2005 PM 2:27

JESSICA MCCLAIN, et al. v. ROBERT R. DI TROLIO  
CLERK, U.S. DIST. COURT  
W.D. OF TN, MEMPHIS

Plaintiffs,

v.

SPRINT CORPORATION; ) Case No.: 05-2229 D/An  
CELLCO PARTNERSHIP d/b/a ) Judge Bernice B. Donald  
VERIZON WIRELESS ) CLASS ACTION  
CINGULAR WIRELESS LLC; and )  
T-MOBILE, USA, INC. ) JURY DEMANDED

Defendants.

FILED BY *cas*  
MAY 31 2005  
AFTER HOURS DEPOSITORY  
Robert R. Di Trolio, Clerk  
U. S. DIST COURT  
W. D. OF TN, MEMPHIS

**MOTION GRANTED**  
DATE: 6-1-2005  
*Bernice B. Donald*  
BERNICE BOUIE DONALD  
U.S. DISTRICT JUDGE

**MOTION TO SUSPEND DEADLINES AND**  
**CONTINUE THE JUNE 8, 2005 SCHEDULING CONFERENCE**

Defendants Sprint Corporation, Cellco Partnership d/b/a Verizon Wireless, and T-Mobile USA, Inc. ("Moving Defendants") hereby move this Court to (i) suspend the deadline within which to submit a proposed scheduling order, (ii) suspend the deadline within which the parties must meet and confer pursuant to Rule 26(f) and to serve Rule 26(a)(1) initial disclosures; and (iii) continue this Court's June 8, 2005 Rule 16 Scheduling Conference.

**MEMORANDUM OF FACTS AND LAW**  
**IN SUPPORT OF MOTION TO SUSPEND DEADLINES AND**  
**CONTINUE THE JUNE 8, 2005 SCHEDULING CONFERENCE**

Moving Defendants respectfully submit this Memorandum of Facts and Law in support of their motion, pursuant to Local Rule 7.2(a)(1).

Plaintiff Jessica McClain filed her original Class Action Complaint in Shelby Circuit Court, which action was timely removed to this Court on March 25, 2005. The Court's May 4, 2005 Notice of Setting provided deadlines for the parties to meet and confer pursuant to Rule 26(f), make Rule 26(a)(1) initial disclosures, submit a proposed scheduling order by May 31,

2005 and attend a Rule 16(b) Scheduling Conference on June 8, 2005. *See* the Notice of Setting (Docket No. 6). On May 16, 2005, Defendants filed motions to stay the proceedings. (Docket Nos. 7 and 11). Defendant Cingular Wireless, LLC also filed a motion to compel arbitration on May 16, 2005. (Docket No. 7). Plaintiffs filed a motion to remand on May 17, 2005. (Docket No. 13). These motions are still pending. Further, on May 24, 2005, the Clerk of the Judicial Panel on Multidistrict Litigation filed a Conditional Transfer Order transferring this case to the Southern District of New York, pursuant to 28 U.S.C. § 1407. A copy of the Conditional Transfer Order is attached at Exhibit A. Pending the Court's resolution of these motions, the Moving Defendants respectfully request that this Court (i) suspend the deadline within which to submit a proposed scheduling order, (ii) suspend the deadline within which the parties must meet and confer pursuant to Rule 26(f) and to serve Rule 26(a)(i) initial disclosures; and (iii) continue this Court's June 8, 2005 Rule 16 Scheduling Conference. Plaintiffs' counsel has informed Moving Defendants that Plaintiffs stand on their motion to remand and do not believe anything should be done in this case pending a resolution of their motion to remand by the District Court.

**Local Rule 7.2 Certificate of Consultation by Counsel**

Pursuant to Local Rule 7.2(a)(1)(B), the undersigned counsel hereby certifies that R. Dale Grimes, on behalf of the Moving Defendants, consulted with W. Gordon Ball, counsel for Plaintiffs, via telephone on May 31, 2005 regarding the relief requested herein. Mr. Ball indicated that Plaintiffs stand on their motion to remand and do not believe anything should be done in this case pending a resolution of their motion to remand by the District Court.



# Notice of Distribution

This notice confirms a copy of the document docketed as number 23 in case 2:05-CV-02229 was distributed by fax, mail, or direct printing on June 8, 2005 to the parties listed.

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